

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL MCCOLE,

Petitioner,

v.

PA BOARD OF PROBATION AND  
PAROLE, and SUPT. GRACE,

Respondents.

Civil Action No. 04-261 Erie

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on September 14, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 28], filed on February 6, 2006, recommended that Petitioner's Petition be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Defendants. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 24<sup>th</sup> day of February, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 28] of Magistrate Judge Baxter, filed on February 6, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge